

**Commonwealth of Massachusetts
HAMPDEN SUPERIOR COURT
Case Summary
Civil Docket**

Frei v Holland et al

Details for Docket: HDCV2002-01196

Case Information

Docket Number:	HDCV2002-01196	Caption:	Frei v Holland et al
Filing Date:	11/20/2002	Case Status:	Dismissed
Status Date:	01/03/2005	Session:	Civil A - CtRm 6
Lead Case:	NA	Case Type:	Complex

Tracking Deadlines

TRK:	F	Discovery:	09/16/2003
Service Date:	02/18/2003	Disposition:	02/28/2004
Rule 15:	04/19/2003	Rule 12/19/20:	04/19/2003
Final PTC:	04/21/2004	Rule 56:	11/30/2003
Answer Date:	04/19/2003	Jury Trial:	YES

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Lead Case:	NA	Case Type:	Misc real property

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Final PTC:	04/21/2004	Rule 56:	11/30/2003
Answer Date:	04/19/2003	Jury Trial:	YES

Parties Involved

3 Parties Involved in Docket: HDCV2002-01196

Party Involved:		Role:	Defendant
Last Name:	Holland	First Name:	Planning Board of

Address:
City:
Zip Code:
Telephone:

Address:
State:
Zip Ext:

**Party
Involved:**

Last Name: Holland
Address:
City:
Zip Code:
Telephone:

Role: Defendant
First Name: Town of
Address:
State:
Zip Ext:

**Party
Involved:**

Last Name: Frei
Address: P.O. Box 500
City: Brimfield
Zip Code: 01010
Telephone: 413-245-4660

Role: Plaintiff
First Name: Peter K
Address:
State: MA
Zip Ext: 0500

Attorneys Involved

2 Attorneys Involved for Docket: HDCV2002-01196

**Attorney
Involved:**

Last Name: McCaughey
Address: 807 Main Street
City: Warren
Zip Code: 01083
Telephone: 413-436-9321
Fascimile: 413-436-9322

Firm Name:

First Name: Vincent
Address: PO Box 601
State: MA
Zip Ext:
Tel Ext:
Representing: Holland, Town of (Defendant)

**Attorney
Involved:**

Last Name: McCaughey
Address: 807 Main Street
City: Warren

Firm Name:

First Name: Vincent
Address: PO Box 601
State: MA

Zip Code: 01083
Telephone: 413-436-9321
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Zip Ext:
Tel Ext:
Representing: Holland, Planning Board of
 (Defendant)

Calendar Events

21 Calendar Events for Docket: HDCV2002-01196

No.	Event Date:	Event Time:	Calendar Event:	SES:	Event Status:
1	04/14/2003	09:00	Motion/Hearing: miscellaneous	A	Event held as scheduled
2	05/08/2003	09:00	Motion/Hearing: amend complaint	A	Event held as scheduled
3	06/11/2003	14:00	Motion/Hearing: miscellaneous	A	Event held as scheduled
4	09/15/2003	09:00	Motion/Hearing: amend deadline	A	Event held as scheduled
5	09/15/2003	09:00	Motion/Hearing: Compel	A	Event held as scheduled
6	09/30/2003	14:00	Motion/Hearing: Compel	A	Event held as scheduled
7	10/01/2003	09:00	Motion/Hearing: miscellaneous	A	Event held as scheduled
8	10/01/2003	09:00	Motion/Hearing: Compel	A	Event held as scheduled
9	10/14/2003	09:00	Motion/Hearing: miscellaneous	A	Event held as scheduled
10	11/19/2003	15:00	Conf: final pre-trial	A	Event not held-req of Plaintiff
11	12/01/2003	09:00	Motion/Hearing: miscellaneous	A	Event held as scheduled
12	12/29/2003	15:00	Conf: final pre-trial	A	Event moved to another session
13	01/07/2004	15:00	Conf: final pre-trial	A	Event held as scheduled
14	01/29/2004	16:00	Status: Review Annual Fee	A	Event held as scheduled
15	04/21/2004	15:00	Conf: final pre-trial	A	Event held as scheduled
16	05/18/2004	09:00	Motion/Hearing: miscellaneous	A	Event held as scheduled
17	06/02/2004	09:00	Motion/Hearing: miscellaneous	A	Event held as scheduled
18	06/10/2004	09:00	TRIAL: by jury	A	
19	06/23/2004	09:00	Motion/Hearing: Protective Order	A	Event held as scheduled
20	08/24/2004	09:00	Motion/Hearing: miscellaneous	A	Event held as scheduled
21	09/09/2004	09:00	Motion/Hearing: Protective Order	A	Event held as scheduled

Full Docket Entries

158 Docket Entries for Docket: HDCV2002-01196

Entry Date: **Paper No:** **Docket Entry:**

11/20/2002	1	Complaint & civil action cover sheet filed
11/20/2002		Origin 1, Type C99, Track F.
11/22/2002	2	SERVICE RETURNED and the Town of Holland(Defendant)
12/13/2002	3	Notice of Taking Deposition by Peter K Frei on 12/30/02 Re; Debra
12/13/2002	3	Benveniste.
12/13/2002	4	Notice of Taking Deposition by Peter K Frei on 12/30/02 re: Joanne
12/13/2002	4	May.
12/13/2002	5	Notice of Taking Deposition by Peter K Frei on 12/30/02 re: Earl
12/13/2002	5	Johnson.
12/16/2002	6	Atty Vincent McCaughey's notice of appearance for deft. Planning
12/16/2002	6	Board of Holland, Town of Holland
12/16/2002	7	ANSWER: and Counterclaim of Planning Board of Holland and Town of
12/16/2002	7	Holland.(Defendant)
12/17/2002	8	Request for default (55a) for failure to answer re: Planning Board of
12/17/2002	8	Holland, Town of Holland
01/07/2003	9	ANSWER by Peter K Frei to COUNTERCLAIM of Planning Board of Holland,
01/07/2003	9	Town of Holland
04/11/2003		Pleading, Defendant's opposition to plaintiff's motion to amend
04/11/2003		complaint , returned to Vincent McCaughey, Esq.: No motion to amend
04/11/2003		complaint is on file, your original and a copy of your opposition is
04/11/2003		to be sent to the plaintiff to be included with the 9A package for
04/11/2003		filing with the court.
04/14/2003	10	Plaintiff Peter K Frei's emergency MOTION to extend tracking order
04/14/2003	10	deadline for rule 15 motions to 5/19/03
04/14/2003		(P#10) ALLOWED - No further extentions. (Lawrence B. Wernick,
04/14/2003		Justice)(notices in hand and fx: 04/14/03)
05/07/2003	11	Plaintiff Peter K Frei's MOTION to amend complaint by adding defts.,
05/07/2003	11	"Debra Benveniste, chair woman of the planning board", Joanne May,
05/07/2003	11	secretary of the planning board", "Don Beal, member of the planning
05/07/2003	11	board", "Robert H. Ford, town clerk", "Earl Johnson, member of the
05/07/2003	11	planning board and member of the board of selectmen", "John Kay,
05/07/2003	11	member of the planning board", "Marilyn LaPlante, member of the
05/07/2003	11	planning board" and "Brian Roche, member of the planning board"
05/08/2003		(P#11) Mark for hearing. (Judd J Carhart,Justice). Notices faxed and
05/08/2003		mailed May 09, 2003
06/03/2003	12	Plaintiff's Notice of Taking Deposition of June Squire.
06/20/2003		(P#11) (dated 06/12/03) DENIED (Peter A. Velis, Justice) (Notices
06/20/2003		faxed & mailed June 20, 2003)
09/11/2003	13	Plaintiff Peter K Frei's emergency MOTION to extend tracking order
09/11/2003	13	deadline to compel a continuance of a deposition and to compel ans.
09/11/2003	13	from 9/16/03 to 10/16/03 .

09/11/2003	14	Plaintiff Peter K Frei's emergency MOTION to compel answers to
09/11/2003	14	deposition questions and for a continuance of a deposition.
09/12/2003	15	Defts.' response to plff's. emergency motions for protective order
09/12/2003	15	concerning certain depositions.
09/22/2003		(P#13)(dated 9/15/03) ALLOWED. No Opposition. (Constance Sweeney,
09/22/2003		Justice) Notices faxed/mailed September 22, 2003
09/22/2003		(P#14)(dated 9/15/03) Hearing on motion scheduled for 09/30/03 at
09/22/2003		2:00 p.M. Courtroom 6. Plaintiff must provide the court all the the
09/22/2003		transcript of the deposition. (Constance Sweeney, Justice). Notices
09/22/2003		faxed/mailed September 22, 2003
09/26/2003	16	Memorandum: in support of plaintiffs' motion to compel answers to
09/26/2003	16	deposition questions, and for a continuance of a deposition filed by
09/26/2003	16	Peter K Frei.
09/30/2003	17	Notice sent to appear for pre-trial conference on November 19, 2003.
09/30/2003	17	faxed September 30, 2003.
09/30/2003		Hearing on (P#14) compel answers to deposition questions held, matter
09/30/2003		taken under advisement. (Constance Sweeney, Justice)
09/30/2003	18	Memorandum: in support of defendants' request for protective order
09/30/2003	18	filed by Planning Board of Holland, Town of Holland.
10/06/2003		(P#14)(dated 10/1/03) See endorsement on Def's memo in support of
10/06/2003		request for P.O. (Constance Sweeney, Justice). Notices faxed/mailed
10/06/2003		October 06, 2003
10/06/2003		(P#18)(dated 10/1/03) After hearing Protective Order ALLOWED to the
10/06/2003		extent that Mr. Frei may, depose Ms. Benveniste for up to &
10/06/2003		additional hour during one last deposition setting. His questions
10/06/2003		must be limited in scope so that he seeks facts that are likely to
10/06/2003		lead to relivant evidence. If the deveates from this structure, the
10/06/2003		deposition should be immediately terminated. (Constance Sweeney,
10/06/2003		Justice) Notices mailed October 06, 2003
10/10/2003	19	Plaintiff Peter K Frei's emergency MOTION to extend tracking order
10/10/2003	19	deadline - Rule 56 to 11/30/2003 and pre-trial conference to
10/10/2003	19	12/31/2003.
10/14/2003		MOTION (P#19) ALLOWED (Constance Sweeney, Justice) Notices mailed
10/14/2003		October 14, 2003
11/13/2003	20	Notice sent to appear for pre-trial conference on December 29, 2003
11/28/2003	21	Plaintiff Peter K Frei's Emergency MOTION to extend time to file Rule
11/28/2003	21	56 motions from 11/30/03 to 1/31/04
11/28/2003	22	Plaintiff Peter K Frei's MOTION for entry of default as Sanctions for
11/28/2003	22	perjury by defendant.
12/01/2003		MOTION (P#21) DENIED. Further, this is not an emergency. Costs of
12/01/2003		\$100 to be pd. by plaintiff to court for deliberate failure to comply

12/01/2003		with Rule 9A. (Constance M. Sweeney, Justice) Notices faxed & mailed
12/01/2003		December 01, 2003 (\$100.00 paid 12/29/03)
12/01/2003		MOTION (P#22) DENIED (Constance M. Sweeney, Justice) Notices faxed &
12/01/2003		mailed December 01, 2003
12/10/2003	23	Notice of Annual Civil Litigation Fee mailed to plaintiff's attorney
12/10/2003	23	[attorney:plf] on [date].
12/24/2003	24	Notice sent to appear for pre-trial conference on January 07, 2004
12/29/2003		Annual Civil Litigation fee in the sum of \$120.00 paid by the
12/29/2003		plaintiff Peter Frei on December 29, 2003
01/07/2004	25	Joint pre-trial memorandum filed
02/04/2004	26	Plaintiff Peter K Frei's MOTION in limine to to question any witness
02/04/2004	26	defendant(s) and introduce documents into evidence.
03/02/2004	27	Notice sent to appear for pre-trial conference on April 21, 2004
03/23/2004	28	Plaintiff Request for Assignment M G L c 211B, Sec. 9 request for
03/23/2004	28	special assignment
04/14/2004	29	Notice sent to appear on April 21, 2004 at 3:00 p.m. for a hearing on
04/14/2004	29	motions along with the pre-trial conference. (mailed 04/14/04)
04/15/2004	30	ORDER Denying request for special assignment. faxed/mailed April 16,
04/15/2004	30	2004.
05/12/2004	31	Defendant Planning Board of Holland, Town of Holland's MOTION for
05/12/2004	31	waiver of jury trial.
05/24/2004		(P#31)(dated 5/18/04) DENIED (Peter A. Velis, Justice) Notices faxed
05/24/2004		May 24, 2004
05/25/2004	32	Plaintiff Peter K Frei's MOTION for Voluntary Dismissal of Count II,
05/25/2004	32	Count III and the request for monetary damages, without prejudice and
05/25/2004	32	without conditions. -- Ref. to session judge.
06/02/2004		MOTION (P#32) ALLOWED as to the dismissal of counts II and III;
06/02/2004		denied as to remainder (Peter A. Velis, Justice) fx & m. June 17,
06/02/2004		2004
06/04/2004	33	Joint statement of agreed facts.
06/04/2004	34	Amended joint pre-trial memorandum filed.
06/07/2004	35	Plff's. Proposed Voir Dire questions filed.
06/07/2004	36	Joint exhibit list.
06/07/2004	37	Plff's. trial brief.
06/14/2004	38	Defendant Planning Board of Holland, Town of Holland's emergency
06/14/2004	38	MOTION for protective order on trial date for June 21, 2004 through
06/14/2004	38	July 9, 2004.
06/16/2004		(P#38) (dated 6/14/04) ALLOWED only until 6/25/04. (Judd J.
06/16/2004		Carhart, Justice) Notices mailed/faxed June 16, 2004
06/22/2004	39	Plaintiff Peter K Frei's emergency MOTION for protective order from
06/22/2004	39	trial June 28 thru July 5, and July 9 thru July 14

07/08/2004		(dated 6/23/04) MOTION (P#39) ALLOWED (Judd J. Carhart, Justice)
07/08/2004		Notices faxed July 08, 2004
08/24/2004	40	Plaintiff Peter K Frei's emergency MOTION for a protective order on
08/24/2004	40	trial date for August 30 through September 3, 2004.
08/24/2004		(P#40) ALLOWED (Mary-Lou Rup, Justice)(Notices fx: 08/24/04)
09/09/2004	41	Copy of exhibit envelope.
09/09/2004	42	Waiver of jury claim filed by Peter K Frei, Planning Board of
09/09/2004	42	Holland, Town of Holland
09/09/2004	43	Court received Joint Exhibit list.
09/09/2004	44	Plaintiff Peter K Frei's MOTION to sequester witnesses.
09/09/2004	45	Defendant Planning Board of Holland, Town of Holland's emergency
09/09/2004	45	MOTION for protective order re: witness, Joanne May for a portion of
09/09/2004	45	the day on September 8, 2004.
09/09/2004		(P#45) ALLOWED (Bertha J. Josephson, Justice)(Notices fx: & mailed
09/09/2004		12/13/04)
09/09/2004	46	Defendant Planning Board of Holland, Town of Holland's emergency
09/09/2004	46	MOTION for protective order re: witness, Earl Johnson for September
09/09/2004	46	10, 2004.
09/09/2004		(P#46) ALLOWED (Bertha J. Josephson, Justice) (Notices fx: & mailed
09/09/2004		December 13, 2004)
09/09/2004	47	Plaintiff Peter K Frei's MOTION for use of deposition of witness
09/09/2004	47	outside of Massachusetts.
09/13/2004	48	Court received Plaintiff's closing argument.
09/13/2004	49	Affidavit of Peter K. Frei in support of plaintiff's closing argument.
09/13/2004	50	Closing Trial brief filed by Defts'. Planning Board of Holland, Town
09/13/2004	50	of Holland
12/10/2004	51	MEMORANDUM OF DECISION AND ORDER on plaintiff's petition for a writ
12/10/2004	51	of mandamus. (Betha Josephson, Justice)(Notice fx: & mailed 12/13/04)
01/03/2005	52	JUDGMENT: on plaintiff's petition for writ of mandamus is DENIED
01/03/2005	52	(Bertha Josephson, Justice). Copies mailed/faxed January 04, 2005
01/03/2005	53	Plaintiff Peter K Frei's MOTION for new trial
01/07/2005	54	Opposition to plff's. motion for new trial. filed by Planning Board
01/07/2005	54	of Holland, Town of Holland
01/11/2005		(P#53) (dated 1/5/05) Defendant to file response writtin 30 days.
01/11/2005		(Bertha D. Josephson, Justice). Notices mailed/faxed January 11, 2005
